

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF WASHINGTON

3 ANTONIO SANCHEZ OCHOA, )  
4 )  
5 Plaintiff, ) Case No. 1:17-CV-03124-SMJ  
6 vs. ) July 25, 2017  
7 ) Spokane, Washington  
8 ED W. CAMPBELL, Director of )  
9 Yakima County Department of ) Motion Hearing  
10 Corrections; SCOTT HIMES, Chief )  
11 of the Yakima County Department ) Pages 1 - 64  
12 of Corrections; and YAKIMA )  
13 COUNTY, )  
14 )  
15 Defendants. )

16 BEFORE THE HONORABLE SALVADOR MENDOZA, JR.  
17 UNITED STATES DISTRICT COURT JUDGE

18 APPEARANCES:

19 For the Plaintiff: Mr. Matthew H. Adams  
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25 Proceedings reported by mechanical stenography; transcript  
produced by computer-aided transcription.

1 (Court convened on July 25, 2017, at 2:34 p.m.)

2 THE COURTROOM DEPUTY: Court has reconvened.

3 THE COURT: Please be seated.

4 THE COURTROOM DEPUTY: The matter before the Court is  
5 *Sanchez Ochoa v. Campbell, et al.*, Cause No. CV-17-3124-SMJ,  
6 time set for motion hearing.

7 Starting with the plaintiff, please state your presence for  
8 the record.

9 MR. ADAMS: Matt Adams with Northwest Immigrant Rights  
10 Project on behalf of the plaintiff.

11 MS. ISLEY: Lori Isley, Columbia Legal Services, for  
12 the plaintiffs.

13 MR. CRUZ: Bernardo Cruz on behalf of the plaintiff  
14 with Columbia Legal Services.

15 THE COURT: Good afternoon to all three of you.

16 MR. PLANT: Quinn Plant representing Yakima County,  
17 your Honor.

18 MR. REUVENI: Good afternoon, your Honor.  
19 Erez Reuveni on behalf of the United States.

20 MR. DURKIN: Tim Durkin, your Honor, on behalf of the  
21 United States.

22 THE COURT: Good -- good afternoon to all parties  
23 today.

24 Counsel, as I see it, there's a motion for a temporary  
25 restraining order that's been filed by the plaintiffs in this

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER BY MR. ADAMS

1 case asking for this extraordinary relief. And, so, I see, as  
2 the threshold issue, the decision, really, on the success of the  
3 merits problem with the *Winter* test.

4 So, going to the issue of whether or not there was a Fourth  
5 Amendment right that was violated, that there was a seizure,  
6 based upon the pleadings, the defendants contest that -- contest  
7 that there was a seizure, that there is no hold.

8 And, so, I want to hear from both sides on this point.  
9 We're going to go through the others. I want to make sure I  
10 understand the different arguments, but let's start here. So,  
11 I'm not sure who's handling that portion or the argument from  
12 the plaintiff's side; and, then, I'll hear from the defense  
13 along with the Government, if they wish to address that point,  
14 as well. Okay?

15 MR. ADAMS: Thank you.

16 THE COURT: So the question I have, if there is a --  
17 if it is as the Government -- excuse me -- the County has  
18 indicated, if, in fact, Mr. Sanchez Ochoa is free to post bail  
19 and they, in fact, do post bail and, in fact, are released from  
20 Yakima County Jail, you would agree, then, that -- even if, for  
21 example, ICE then detains him after that, you'd agree that  
22 there's no Fourth Amendment issue, is there?

23 MR. ADAMS: We would agree that ICE has the  
24 prerogative to detain him when he is released; and we would  
25 agree that had the County not interfered with his opportunities

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER BY MR. ADAMS

1 to post bail, then -- and he's now able to post bail -- then  
2 there would be no Fourth Amendment issue.

3 THE COURT: Can you point to what you believe are  
4 facts in the record that the Court can rely upon to indicate  
5 that, in fact, this was a detention?

6 MR. ADAMS: Certainly. And I would like to point to  
7 two -- actually, three separate points that indicate that it's a  
8 detention. And the first point, while perhaps not as -- I would  
9 say the first point defendants have not even addressed in their  
10 opposition and that is the fact that we've submitted, not just  
11 in the Complaint itself, allegations but supporting Declarations  
12 asserting that Mr. Sanchez is unable to obtain a bond and -- and  
13 work with a bail bond agency because of the immigration hold  
14 that's been lodged against him.

15 And, so, we have not just his allegation in the Complaint,  
16 but we have the Declaration of -- of his sister who tried to  
17 post the bond. We have the Declaration of one bail bonds  
18 agency.

19 And, as we pointed out in our reply, we have the Ninth  
20 Circuit's case, which is controlling in this matter, in *Mendia*  
21 *v. Garcia*, which said specifically that a -- in that case, it  
22 was -- a federal official can be held liable even if that  
23 federal official is not detaining the individual but their  
24 action interferes with the bail bond agency's willingness -- or  
25 willingness to -- to work with or to contract with the detained

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER BY MR. ADAMS

1 individual.

2 And, as I mentioned, the defendants don't contest this,  
3 although they do submit a Declaration saying they understand  
4 it's difficult but that has nothing to do with them. But it has  
5 everything in the world to do with them. It is their action in  
6 placing that immigration hold that caused the bail bond agencies  
7 to refuse to engage in services with our client.

8 THE COURT: That case -- that's the -- is that the  
9 Judge Watford's case?

10 MR. ADAMS: That's correct. Yes. Thank you.

11 THE COURT: Okay.

12 MR. ADAMS: The second point -- and I realize there's  
13 a disputed fact here -- is the understanding that -- and the  
14 allegation that the County has advised our plaintiff, both  
15 through that letter to his attorneys and through their practice,  
16 that they will not even accept a bail being posted. And we have  
17 pointed to the County's letter, which is Docket 7-2, which  
18 acknowledges this hold. They don't say in that letter, "Oh,  
19 there is no hold." They say, "There's an ICE hold, but this  
20 individual's going to have to work that out with ICE. He can't  
21 post that through us." So --

22 THE COURT: Are they referring to a potential bond  
23 that ICE may -- that -- that the immigration court is --  
24 is imposing? Isn't that what they're saying in that letter?

25 MR. ADAMS: That's certainly how they attempt to

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER BY MR. ADAMS

1 portray that now; but, I think, if it's looked at in context,  
2 especially with the initial letter that we sent to defendants,  
3 it's hard to read it in that light.

4 THE COURT: Okay. Clarify that.

5 MR. ADAMS: So, in our initial letter that we directed  
6 to the defendants, we asked them to refrain from instituting  
7 immigration holds against individuals because the I-200, the  
8 administrative form, doesn't provide legal authority for that  
9 hold. And, then, we also stated: And this interferes with our  
10 plaintiff's ability because he's not even able to post a bail.

11 And their response was not that he could post a bail and  
12 deal with immigration officials afterwards. They're saying,  
13 "Well, he can post bail; but he's got to work that out with the  
14 feds." And I think the message that we read is loud and clear  
15 with the practice that is experienced there in the community of  
16 -- individuals simply are -- are turned away from it.

17 But -- but even if the Court were not to agree that that's  
18 so clear and that, in fact, as defendants now assert that an  
19 individual detainee with an immigration hold notation is -- is  
20 able to post bail, the last and fundamental point is that they  
21 will not be afforded -- our client will not be afforded the  
22 opportunity to be released by posting that bail. And that is  
23 not because the Department of Homeland Security might show up at  
24 the doors of the jail and take him back into custody; but,  
25 instead, because the County, themselves, takes it upon

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER BY MR. ADAMS

1 themselves, based on this I-200 that has been shared with them,  
2 to redesignate the individual as being under ICE custody.

3 It's very notable in their brief. The County never states  
4 that our client will be physically released. They state he'll  
5 be released from ICE -- excuse me -- from Yakima County custody,  
6 at which point they automatically, as an administrative matter,  
7 redesignate him, unilaterally taking their own action as a  
8 federal detainee.

9 THE COURT: What is wrong with that?

10 MR. ADAMS: Because they have no authority to take  
11 that action. And -- and I think, again, it's pointed that, in  
12 defendant's brief, they do not even attempt to assert that the  
13 I-200 provides them with authority to take an administrative  
14 action to -- to transfer someone to different custody.

15 THE COURT: Well -- but they've served the  
16 defendant -- excuse me -- the plaintiff in this case. They've  
17 served him with that administrative warrant. Right?

18 MR. ADAMS: I'm -- I am unclear whether they or the  
19 ICE officer provided him with a copy of it.

20 THE COURT: I'm sorry.

21 MR. ADAMS: But, yes.

22 THE COURT: I wasn't clear. It's my understanding  
23 from the review of the pleadings and the documents that, in  
24 fact, it was the ICE officer or a federal agent who, in fact,  
25 served Mr. Sanchez Ochoa with that document, with that warrant.



MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER BY MR. ADAMS

1        So, even though Mr. Sanchez Ochoa has been served, what's  
2 the problem with them, then, just clicking a button and saying,  
3 "Now he's in federal custody"?

4            MR. ADAMS: Because Yakima County does not have the  
5 authority to click that button, to enforce that administrative  
6 warrant. We do not dispute that an ICE officer without warrant  
7 in hand or, you know, without warrant having been served can  
8 pick him up. And, if ICE so chooses, they can meet him at  
9 that -- the gate of the jail as he's being released and turn him  
10 right back around. And, being in federal custody, they would  
11 have the authority, then, to use their intergovernmental  
12 agreement where they rent out bed space and place him back into  
13 Yakima custody.

14        But this warrant is pointedly directed -- and, again, this  
15 is at Docket 7-1 -- is pointedly directed just to immigration  
16 officers. Any immigration officer authorized, pursuant to the  
17 sections it says, as commanded. And, if you dig deeper, it  
18 doesn't get any better, because that's based on the regulations  
19 at 236.1 and at 287.5(e), where both explicitly lay out the list  
20 of individuals who are authorized to execute the arrest warrant;  
21 and that's limited to those federal officials.

22            THE COURT: What specific injury are you saying is  
23 occurring at the -- I mean, between meeting him at the jail door  
24 with the ICE agent, Homeland Security individual -- meeting him  
25 at the jailhouse door with that warrant? What's the difference

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER BY MR. ADAMS

1 between that and what they're doing now?

2 MR. ADAMS: There's two injuries that I would point  
3 to, and the first is that it's -- it is speculative whether ICE  
4 will take custody. They often do, but they don't always. And,  
5 so, we can't simply assume that he's not going to face any  
6 additional custody just because another authority agency  
7 jurisdiction might take custody of him. What we have to look at  
8 is whether Yakima County has the authority to continue to extend  
9 his detention.

10 And the second point -- and I would say this with our  
11 client specifically and other clients that we work with on a  
12 daily basis -- even if eventually ICE does take custody of him,  
13 at least at that point he will have the right to demand a bond  
14 hearing in front of an immigration judge. And we'll be able to  
15 go in front of that immigration judge and get a bond form so  
16 that he can be released to his eight-year-old child and back  
17 with his family.

18 As it stands, he's prevented from being released under --  
19 on the bail. And even if, in worst-case scenario -- which ICE  
20 has, we admit, the prerogative to show up and arrest him whether  
21 it's at the jail or at his home --

22 THE COURT: Right.

23 MR. ADAMS: -- if they do take him back into custody,  
24 at that point, he has the right under Section -- it's 236 of the  
25 Immigration Nationality Act -- to demand a bond hearing in front

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER BY MR. ADAMS

1 of an immigration judge if ICE officials decide to take him into  
2 custody.

3       So he faces harm at both points. And, of course, this is  
4 already going beyond the first point we mentioned; that he  
5 doesn't even have the opportunity to post bail because the bail  
6 bond agency won't work with him.

7           THE COURT: Okay. Okay. Anything else on this point?

8           MR. ADAMS: The -- I would -- I would just like to  
9 emphasize that, while the County now, in their briefing, resists  
10 the term "immigration hold," that is the term that's taken  
11 straight from their jail register. That's the term that they  
12 used. Well, they didn't say, "immigration." They said, "ICE  
13 hold" but in responding to our letter. And that's the term that  
14 they used in prior correspondence that we've included in support  
15 of our reply. So, they might try to give it a different label;  
16 but, at the end of the day, they don't deny that he will not --  
17 that the -- that the purpose of this, whether it's a hold or a  
18 notation in the system, is to ensure that he'll be transferred  
19 to the custody of Department of Homeland Security.

20       And then they go one step further. Well, actually, I would  
21 say that the U.S.A. goes one step further in their briefing and  
22 says, "And we have this intergovernmental agreement," which they  
23 can hold people. And -- and we do not deny that that  
24 intergovernmental agreement allows the Federal Government to  
25 rent bed space from the County.

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - RESPONSE BY MR. PLANT

1 But what it pointedly does not do is authorize county  
2 officials to arrest someone, to extend an arrest, or to transfer  
3 someone; to take that unilateral action. It only talks about  
4 federal detainees. And we have not got to the point in these  
5 proceedings where the federal authorities have taken custody of  
6 our client. Our client is in the custody of Yakima County, and  
7 it's Yakima County's actions that have impaired his ability to  
8 post bail.

9 THE COURT: Okay. Thank you.

10 MR. ADAMS: Thank you.

11 THE COURT: Now, is it Mr. Harper? No.

12 MR. PLANT: Plant.

13 THE COURT: Plant. Mr. Plant, would you come forward,  
14 please. So, on this point, if you could tell the Court, point  
15 to the record where it establishes that, in fact, this is not a  
16 seizure under Fourth Amendment analysis.

17 MR. PLANT: Certainly, your Honor. The Declaration  
18 provided of Chief Himes explains that the -- Mr. Sanchez was  
19 arrested and is being detained in Yakima County in accordance  
20 with a probable cause finding by a Yakima County Superior Court  
21 judge.

22 With respect to an immigration hold (indicating) or the  
23 administrative warrant that has been issued --

24 THE COURT: Now, Counsel, for the record, you used  
25 your fingers to put "immigration hold" in quotation marks. That

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - RESPONSE BY MR. PLANT

1 is, in fact, what is in the Yakima County system. Correct?

2 MR. PLANT: That is their notation on the website.

3 Yes, your Honor.

4 THE COURT: Does "hold" mean something different to  
5 you than it means to the rest of the population? What is an  
6 immigration hold?

7 MR. PLANT: That's -- that's the question we're trying  
8 to get at, your Honor. Yakima County has done precisely two  
9 things: They've accepted a copy of an I-200 issued to them by  
10 the Department of Homeland Security, and they have noted that in  
11 their system. They have transcribed it on a written document,  
12 and they've entered it onto their website. They've not taken  
13 any other action with respect to that. They have --

14 THE COURT: So, a person that has an immigration hold  
15 -- for purposes of Yakima County -- what you're saying is that  
16 they can post bail. They can post -- in this case, was it  
17 \$50,000, I believe? Whatever the bail amount is, as soon as  
18 they post that, even if they have a, quote, "immigration hold"  
19 as registered under Yakima County, your position is that they  
20 would be immediately released. Is that Yakima County's  
21 position? And, if it is, I want you to give me some specific  
22 examples where that has occurred.

23 MR. PLANT: Your Honor, it's Yakima County's position  
24 that, if Mr. Sanchez, or a member of his family, posts bail,  
25 Yakima County will accept that bail; and they will process him

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - RESPONSE BY MR. PLANT

1 to be removed from custody, as they would any other inmate, with  
2 the proviso that, because Yakima County has received an I-200,  
3 Yakima County will notify ICE that he has posted bail and is  
4 going to be released.

5 THE COURT: But I don't understand the letter that was  
6 issued. I'm going to reference that because I want to make  
7 sure.

8 MR. PLANT: It's --

9 THE COURT: You know which letter I'm talking about,  
10 right?

11 MR. PLANT: Yes, your Honor.

12 THE COURT: Okay. Explain to me what that letter  
13 means in reference to what you just said because --

14 MR. PLANT: Your Honor, this letter is to -- is to  
15 sort of clarify the issues; and, if you look at -- sorry, your  
16 Honor. I'm trying to locate it here. In this letter,  
17 Director Campbell -- and I apologize. This lawsuit was served  
18 on Wednesday and Mr. Campbell was out of the state and  
19 unavailable. The letter -- as I understand this letter and as  
20 it's been represented to me, is this letter is -- Mr. Campbell  
21 has reached out to ICE and is providing some clarification to  
22 Mr. Sanchez's attorneys. And, particularly, the last sentence  
23 explains that, you know, an ICE -- bail on an ICE hold is  
24 something that's processed by the federal courts. The Yakima  
25 County Department of Corrections has asked ICE officials to

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - RESPONSE BY MR. PLANT

1 explain the process to Mr. Sanchez and answer any questions he  
2 may have.

3 Well, certainly, Yakima County is -- does not need to ask  
4 ICE how to process bail for his Yakima County charges. I mean,  
5 the purpose of this letter is to address the -- the other, you  
6 know, issues that Mr. Sanchez may have.

7 THE COURT: Then why did he say that?

8 MR. PLANT: Which part, your Honor?

9 THE COURT: Why did he say that he has to figure that  
10 out in federal court?

11 MR. PLANT: Because, your Honor, as I understand it,  
12 the -- there is reluctance to issue bail when someone could be  
13 picked up by ICE because they have a tendency to be shipped off  
14 to other locations.

15 THE COURT: Well, doesn't that go to the point that  
16 the plaintiff raised pursuant to a case from the Ninth Circuit,  
17 *Mendia v. Garcia*, where here we have a county making a  
18 designation that there's an immigration hold that causes someone  
19 not to be able to get a bail? Isn't that what we're talking  
20 about here?

21 MR. PLANT: Your Honor, I -- so the initial question  
22 had to do with the seizure; and, so, if we look at what is the  
23 -- what is the conduct by Yakima County, the only conduct by  
24 Yakima County relative to Mr. Sanchez has been accepting the ICE  
25 warrant -- administrative warrant and documenting that. So, I

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - RESPONSE BY MR. PLANT

1 mean, maybe the question boils down to: Is the process of  
2 uploading that into the jail management system where it's posted  
3 on the website -- is -- is that a seizure? And --

4 THE COURT: So, in their mind, it's just an issue of  
5 semantics that --

6 MR. PLANT: In my mind, Yakima County has taken no  
7 affirmative action to detain Mr. Sanchez in any way beyond the  
8 scope of the state law criminal charges. And I can -- I can  
9 represent on the record that this allegation that, if he comes  
10 in to post bail, Yakima County will simply change his status and  
11 retain him in custody -- Yakima County denies that allegation.

12 Yakima County's position is that, if he comes in and posts  
13 bail, we'll process him as we would process any other detainee.  
14 We'll process him for discharge from custody; but, because he  
15 has an administrative warrant, we will notify ICE.

16 THE COURT: But here's my problem though: Doesn't the  
17 process that Yakima County currently has cause someone who has  
18 an immigration hold not to get bail?

19 MR. PLANT: Your Honor, that's -- it's the issuance of  
20 the ICE administrative warrant that causes someone not to be  
21 issued bail.

22 THE COURT: Well, I'm sorry; but immigration officials  
23 aren't posting that information onto your website. You are. So  
24 explain to me how that's ICE fault that they're giving you an  
25 administrative warrant and, then, you, the County, are posting



MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - RESPONSE BY MR. PLANT

1 that as an immigration hold.

2 MR. PLANT: Well, your Honor, as I stated, we are -- I  
3 don't understand that it's not a publicly available document or  
4 a public document. We're processing it, and we're taking no  
5 affirmative actions other than sort of documenting it in our  
6 system.

7 THE COURT: Okay. I understand that's your position.  
8 What about the argument that -- that the County is -- that this  
9 re-designation -- you briefly mentioned it. Counsel argues that  
10 county officials aren't authorized -- aren't authorized to, in  
11 fact, effectuate these administrative warrants; that they don't  
12 have the authority, training, or otherwise to do that.

13 MR. PLANT: So, your Honor, you're referring to the  
14 claim by Mr. Sanchez that the County doesn't have the authority  
15 to, if he posts bail, retain him in custody and simply switch  
16 his status?

17 THE COURT: Correct.

18 MR. PLANT: Our position would be that's an academic  
19 question. Yakima County has no intention of doing that with  
20 Mr. Sanchez. We deny that that's our intention to do with  
21 Mr. Sanchez. We certainly agree with -- and, actually, you  
22 know, they make this argument that this -- the intralocal  
23 agreement that Yakima County has with the Marshals Service that  
24 ICE uses doesn't contemplate that. It contemplates that we  
25 release him to an appropriate official, such as, an ICE official

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - RESPONSE BY MR. REUVENI

1 or U.S. Marshal, and that person, then, can reenter them. And  
2 we agree that's what the -- that's what the agreement appears to  
3 contemplate.

4 THE COURT: Okay. Can you point to anything else on  
5 the record that indicates that this is not a seizure?

6 MR. PLANT: Well, certainly, your Honor. He's being  
7 lawfully held pursuant to a probable cause determination; and,  
8 if he posts bail, he will be released.

9 THE COURT: On the criminal charge, you mean.

10 MR. PLANT: On his state law criminal charges, yeah.

11 THE COURT: Okay.

12 MR. PLANT: If he posts bail, Yakima County will  
13 process him for release from its custody.

14 THE COURT: Okay. Anything else?

15 MR. PLANT: No, your Honor.

16 THE COURT: All right. Anyone from the Government  
17 wanting to address this point?

18 MR. REUVENI: Yes, your Honor.

19 THE COURT: Okay. Go ahead, Counsel.

20 MR. REUVENI: Good afternoon, your Honor.

21 THE COURT: Good afternoon.

22 MR. REUVENI: Erez Reuveni on behalf of the United  
23 States.

24 THE COURT: I'm sorry, Counsel. I just want to make  
25 sure I have your name correct. It's -- what's your last name?

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - RESPONSE BY MR. REUVENI

1 MR. REUVENI: Reuveni.

2 THE COURT: Reuveni? Okay. Thank you.

3 MR. REUVENI: Thank you. And just at the onset, your  
4 Honor, thank you for indulging us and giving us the opportunity  
5 to participate at this hearing.

6 I think, from the Government's perspective, it's helpful,  
7 with the Court's indulgence, just to lay out a little bit of  
8 background of how this contract works from the Government side  
9 of things and --

10 THE COURT: No, Counsel. I don't want to do that.

11 MR. REUVENI: Okay.

12 THE COURT: What I want you to do is answer my  
13 question, which is: Point to the record that indicates that  
14 this is not a seizure.

15 MR. REUVENI: Well, like counsel for Yakima has  
16 indicated, there is no new arrest. There is no new set of  
17 restraints placed on this individual that's cognizable under the  
18 Fourth Amendment. There's no use of force. There's nothing  
19 within the normal scope of Fourth Amendment -- Fourth Amendment  
20 jurisprudence is a new seizure.

21 So, if you look at all the cases that plaintiff relies on,  
22 in each of those cases, *Clackamas County* in particular, there is  
23 a new seizure; that the person -- in *Clackamas County*, there was  
24 a policy: We will not allow you to post bail. Okay? I'm  
25 take -- we're taking the County at its word that there is no

1 such policy here.

2 So that's really the difference between what is a new  
3 seizure and what is not.

4 In *Clackamas County*, as well, the individual was detained  
5 an additional -- I believe it was 18 -- up to 18 hours when they  
6 were entitled to release after, in fact, they were released on  
7 their own recognizance or had, in fact, posted bond. Again,  
8 that's not the case here. We haven't gotten there. That's  
9 entirely speculative.

10 What's likely to happen when Mr. Sanchez is allowed to post  
11 bond, if he -- if he does get there, as I understand it, he'll  
12 be processed by the County for release; but the County will  
13 reach out to ICE, as is their practice, as they are entitled to  
14 do, and as they have done for years.

15 THE COURT: And counsel concedes that, at that point,  
16 the -- the immigration officials may, in fact, serve the warrant  
17 and place that person into federal custody.

18 MR. REUVENI: That's correct. That -- that would be  
19 the new seizure and that would be a lawful seizure because it's  
20 done pursuant to administrative warrant that is permitted by act  
21 of Congress.

22 THE COURT: Well, tell me this, though: Why should  
23 the Court, then, not view the designation by the County of  
24 immigration hold status on an individual as, in effect, a  
25 detention or a prevention from even obtaining bail, as they've

1 argued?

2 MR. REUVENI: Well, I think it's important to  
3 distinguish what is an injury for Article III purposes in  
4 response to your question, which is what the Ninth Circuit in  
5 Judge Watford's decision was addressing, and what, in fact, is  
6 on the merits of Fourth Amendment seizure.

7 So Judge Watford's decision addresses what sort of  
8 allegations are sufficient to invoke Article III jurisdiction.  
9 In that case, the policy that was in place -- and, again, in  
10 that case, it was a U.S. citizen, not a noncitizen as is the  
11 case here, who was not allowed -- or was unable to secure bond.  
12 250,000 I think it was in that case. So the -- that allegation  
13 is similar, but that only gets plaintiff in the door for  
14 standing purposes.

15 It's instructive, I think, to go back to see what happened  
16 in District Court in that case after the remand. And, in that  
17 case on the merits, the issue was the qualified immunity for the  
18 ICE defendants. And the judge ruled against them on that issue  
19 because the individual was a U.S. citizen. So there was no  
20 lawful way for ICE to issue a -- in that case, a detainer or  
21 what we're referring to as an immigration hold here; but it's  
22 constructively the same thing from ICE's perspective.

23 The plaintiff here is not a U.S. citizen. He's a  
24 noncitizen who's been picked up on state charges of criminality  
25 and is now also a removal -- subject to removal for those

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - RESPONSE BY MR. REUVENI

1 charges.

2       So, if we were to get to the merits, which is speculative  
3 because he hasn't presented -- he hasn't gone to get bond. He  
4 hasn't attempted to post bond. He's taken the position that, if  
5 he attempts to do that, it would be futile because Yakima would  
6 reject it; but Yakima has told us that's not case.

7           THE COURT: Well, hold on, then. What do we deal --  
8 how do we deal with the instruction by the County telling him he  
9 has to figure that out in federal court?

10           MR. REUVENI: Well, I think that might be an issue of  
11 inartful language. There's no bond proceeding that will occur  
12 in federal court once he's picked up by ICE. He'll be in  
13 immigration court. So what happens once -- hypothetically, if  
14 he is, in fact -- if he posts bond, he's released. But, then,  
15 ICE picks him up and processes him back into Yakima as they're  
16 entitled to do under the IGA, the intergovernmental  
17 contract. Within 48 hours, he would be issued a notice to  
18 appear. It would lay out the charges against him from ICE; and,  
19 then, he would be entitled to make the case for bond in  
20 immigration court.

21       Just out of candor, it's unlikely ICE would view him as  
22 entitled to bond under 8 U.C.C. 1226(a) given that he --

23       (Interruption by the reporter)

24           MR. REUVENI: My apologies.

25       (Interruption by the reporter)

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - RESPONSE BY MR. REUVENI

1 MR. REUVENI: Well, I'm speculating; but it's possible  
2 that ICE would view him as a criminal alien and he'd be subject  
3 to 8 U.S.C. 1226(c). But, even then, he would be entitled to  
4 challenge that designation in what's called a "Joseph hearing"  
5 under the regulations that would apply.

6 So his bond -- if -- if I'm understanding what the County  
7 may be referring to, his bond hearing -- his custody  
8 determination occurs in immigration court.

9 If he files a *habeas* case at that point, you know, that --  
10 that might be in federal court, although I don't think the Court  
11 would have jurisdiction. But whatever bond -- and he's entitled  
12 to this -- happens in immigration court, not in federal court.

13 So I think -- again, speculating what the County may be  
14 referring to is: Once he's in ICE custody, how does he  
15 challenge that -- his custody? And that's done through the bond  
16 hearing in front of an IGA, an immigration judge, in immigration  
17 court.

18 If -- if I may just address this point that plaintiffs --  
19 plaintiff made as to re-designation that you discussed with both  
20 plaintiff and defendant. So, when he is processed for  
21 release -- all right? Well, let me speak more generally. When  
22 someone is processed for release from Yakima County, one of two  
23 things generally happens: ICE -- or Yakima will call ICE. ICE  
24 will come at the moment of release, and they will pick the  
25 individual up and take them into ICE custody. And, then, they

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - RESPONSE BY MR. REUVENI

1 will take them somewhere else, most likely Tacoma, which is one  
2 of the larger detention centers. There's possibly other places.

3 Or they'll say, "Well, we can't actually drive him to  
4 Tacoma tonight," or wherever they're going. "Pursuant to our  
5 IGA, we are -- we're booking him back into Yakima County,"  
6 which, you know, we're entitled to do. And now they're in ICE  
7 custody, but they're physically housed at Yakima. And, so,  
8 that's done with an ICE agent doing that.

9 And there's a third scenario that could occur. If the ICE  
10 agent cannot appear in person for whatever reason -- there might  
11 be some exigency elsewhere -- they will run what's called a  
12 Form I-203, a request to detain book, which triggers the IGA  
13 from ICE's perspective and, again, allows the person to be  
14 detained in Yakima's custody, although, constructively, they're  
15 under ICE detention. It's for immigration purposes, not state  
16 law charges.

17 In all three of those situations, there'd be a new seizure;  
18 but it's warranted under the -- it is lawful because of the  
19 administrative warrant that ICE has issued.

20 THE COURT: The 203 procedure. I didn't understand  
21 that. Say that again.

22 MR. REUVENI: So it's -- an I-203 is, essentially, how  
23 ICE -- think of it as a purchase order. How does ICE get the  
24 bed space in Yakima? How do they let Yakima know we would like  
25 to have this detainee housed here for this amount of time for



MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - RESPONSE BY MR. REUVENI

1 these reasons? That's done through an I-203. A form I-203. I  
2 believe plaintiff referenced it in their pleadings, as well.  
3 It's just -- it's perfunctory. It's just a binary -- it's the  
4 paperwork. So you fill this out. Now Yakima knows this person  
5 will be detained in Yakima on behalf of ICE.

6 But none of these things have happened yet. So it's  
7 entirely speculative which course ICE will take if it, in fact,  
8 picks Mr. Sanchez up. But, because none of those things have  
9 happened yet, there's been no new seizure.

10 THE COURT: And you don't see the fact that the County  
11 is designating him as an immigration hold a problem, or you  
12 don't think that that is -- that that causes someone not to be  
13 able to get bail?

14 MR. REUVENI: Well, no, I don't see it as a problem,  
15 your Honor.

16 THE COURT: Why?

17 MR. REUVENI: A couple of reasons. So, again,  
18 speculating. But, if I'm a bondsman, maybe the reason I'm doing  
19 this is not because of the hold but because I know the guy's  
20 going to end up in ICE custody and then --

21 THE COURT: How do they know that?

22 MR. REUVENI: Because of the hold. That's -- the  
23 County told the Court --

24 THE COURT: Right. But, if the bondsmen don't know  
25 that?

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - RESPONSE BY MR. REUVENI

1 MR. REUVENI: Well, they -- they believe, if I  
2 understand the Declaration from plaintiff from the one  
3 individual bondsman, that he will not be allowed to post bond.  
4 So that's based on an erroneous understanding of the facts here.

5 THE COURT: So --

6 MR. REUVENI: My question goes to a different --

7 THE COURT: -- let me ask you it this way: Let's say  
8 that we turn back time, and Mr. Sanchez Ochoa did not have an  
9 immigration hold designation. My question is: Don't you agree  
10 that that person would be able to bond out versus the person  
11 that we have now who has a designation of INS hold?

12 MR. REUVENI: I don't -- I don't know that, your  
13 Honor. I mean, I don't know -- I can't be in the mind of -- of  
14 the bail provider. I don't know if the bail provider -- if we  
15 take away these -- the facts here and we have -- there's no  
16 immigration hold. So I don't know if the bail providers then  
17 would say, "Oh, he's just going to be picked up by ICE."

18 THE COURT: Well, we know that, though, because that's  
19 in the record. Right?

20 MR. REUVENI: Know what? I'm sorry, your Honor.

21 THE COURT: We know what the bondsmen do with people  
22 who have immigration holds.

23 MR. REUVENI: Well, we know what one particular  
24 bondsman does based on their assumption that Yakima won't  
25 release --

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - RESPONSE BY MR. REUVENI

1 THE COURT: Is there something else in the record that  
2 you want me to look at?

3 MR. REUVENI: We haven't submitted any facts to that.

4 THE COURT: Okay.

5 MR. REUVENI: So -- but that goes to whether -- in the  
6 Government -- the U.S. Government's view, that goes to  
7 whether -- that goes to whether -- this belief that the County  
8 has a policy of not permitting release based on the hold, which  
9 Yakima has told us is not the case. And that, again, is what  
10 distinguishes the facts in this case from these other cases the  
11 plaintiffs -- or plaintiff is relying on.

12 On the seizure point, I just -- the Ninth Circuit has  
13 already told us the answer to the question as a legal matter.  
14 That's the *Kauai County* case the Government cited in its brief.  
15 It's a 2002 case. If you'd like, I can tell you precisely what  
16 page. Sorry. Give me one minute. Yes. So that's that *Cruz v.*  
17 *Kauai County*, 279 F.3rd 1064, pin cite 1066 and 1068, where the  
18 Court there indicates that you don't have a new seizure for  
19 Fourth Amendment purposes unless and until someone is released  
20 from state custody only to be re-arrested and re-incarcerated on  
21 some other basis.

22 And that, I would submit, is what has to happen here before  
23 there is a new seizure and because that hasn't happened and  
24 because we're here on a TRO posture. So we're speculating. Is  
25 he going -- is he going to post bond now that the record has

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - RESPONSE BY MR. REUVENI

1 been set clear by Yakima? Is a bail bondsman going to assist  
2 him now that the record has been made clear by Yakima? Is he  
3 then going to post bond knowing full well that, when he does,  
4 it's very likely ICE will pick him up and rebook him back into  
5 the County? All these things are speculative.

6 And counsel for plaintiff, I think, sort of indirectly  
7 makes that point. He told you it's speculative ICE takes  
8 custody. Exactly. It's that -- it's speculative that ICE takes  
9 custody. Unless and until it's immediate -- it's clear that  
10 they are immediately going to do so, there's no immediate risk  
11 of a new seizure.

12 So, really, again, he may have injury for standing  
13 purposes. That's Judge Watford's decision. But Judge Watford  
14 did not purport to reach the issue of the merits. And, in fact,  
15 there's a footnote there at the end of that decision in which  
16 Judge Watford makes clear for the panel: If he doesn't post  
17 bond because he thinks he's going to be picked up by ICE, that  
18 is not injury. And that's not exactly -- that's not exactly on  
19 all fours with what's happening here; but part of this from  
20 ICE's view I would think is he's asking the Court to issue an  
21 order taking -- removing the hold and allowing him to post bond  
22 and walk. To what -- to what end? So that ICE has to apprehend  
23 him out in the field instead of the security of Yakima County?  
24 So that ICE can't re-detain him?

25 I mean, again, this is all speculative. But why? What --

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - REPLY BY MR. ADAMS

1 what does that accomplish? And then I think it actually cuts  
2 against plaintiff in that respect. If he's not going to post  
3 bond because he knows he's going to end up in ICE custody, then  
4 what are we talking about?

5 If there are no other questions on this issue, your Honor?

6 THE COURT: I don't have any other questions on this  
7 issue.

8 MR. REUVENI: Thank you.

9 THE COURT: Thank you. If could I hear from the  
10 plaintiffs on another point and that is on the County's  
11 authority to detain -- to detain Mr. Sanchez Ochoa on the  
12 administrative warrant. Could you speak to that point?

13 MR. ADAMS: Yes, thank you. As I previously noted,  
14 the administrative warrant is directed solely to an enumerated  
15 list of federal officials. And it's not just the form, itself,  
16 that directs it to that but the regulations explicitly enumerate  
17 the group of individuals who can execute an arrest warrant.  
18 And, notably, state officials are absent. It's only a select  
19 group of federal immigration enforcement officers that have the  
20 authority to execute that warrant.

21 And counsel for the United States, when he talked about the  
22 merits of the *Mendia v. Garcia* case, that the standing was what  
23 was at issue, and then they went to whether a U.S. citizen --  
24 ICE had the authority to detain a U.S. citizen.

25 So here we have standing because the County impeded the

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - REPLY BY MR. ADAMS

1 ability to post the bond, the bail; and, then, the issue is  
2 whether the County has lawful authority to execute an arrest  
3 warrant.

4 And I think -- but -- but sticking to your question,  
5 there's -- there's other reasons why that -- an administrative  
6 warrant is not sufficient. It's not just because the  
7 regulations and statutes limit the authority to federal  
8 immigration officers. It's also because Yakima County officials  
9 have been presented with no probable cause to engage in that  
10 action. It's undisputed that this is a civil matter. It's  
11 undisputed that this is an administrative warrant with no  
12 neutral magistrate or even neutral executive office adding  
13 overview.

14 THE COURT: Well, there is an immigration agent who  
15 has determined that there is probable cause to believe that the  
16 person has violated the laws of the United States by entering  
17 this country illegally. They've made their assertions. How is  
18 that different than, say, a detective going to a judge and  
19 saying, "Judge, here is the probable cause that establishes  
20 that, in fact, this person has committed this particular crime"?  
21 Why is that different?

22 MR. ADAMS: Because, in this case, the detective or  
23 the ICE agent never goes to a judge, never gets any neutral  
24 authority to sign off in saying, "Yes, your assertions are  
25 sufficient. You may now execute this warrant." And that's what

1 we had in the Supreme Court's case in *Coolidge*. You had the  
2 Attorney General entering an arrest warrant that was struck down  
3 by the Court precisely because the Attorney General was the  
4 prosecutor in that case.

5 And you had the -- the federal court decision in *Badrawi*  
6 that we referenced where, again, the federal court said that an  
7 arrest pursuant to an administrative warrant must be considered  
8 a -- a warrantless arrest because there is no neutral magistrate  
9 that is looking over that, that's signing off on that.

10 And it's -- it's notable that in the warrant, itself, the  
11 box that is checked -- it's a form sheet -- and that's -- this  
12 is I-200 that's, again, in Document 7-1. The box, itself, says  
13 "Statements --" what's the basis for the finding? "Statements  
14 made voluntarily by the subject to an immigration officer and/or  
15 other reliable evidence that affirmatively indicate[s] [it] ..."

16 So there's not even any specific indicia of what -- the  
17 evidence they're relying on. And, again, we do not dispute that  
18 ICE officers have the authority to engage. They've received the  
19 training, the certification. Under the regulations, they're --

20 THE COURT: Let me stop there. To that point, they  
21 argue that they have established probable cause. Why isn't that  
22 probable cause sufficient for the state agents to then have that  
23 as their basis to detain this person?

24 MR. ADAMS: Because the state agents are not  
25 authorized to enforce immigration law. There's no basis in the

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - REPLY BY MR. ADAMS

1 statute, either under Washington State law or under federal law,  
2 that provides them with that authority. And that is the  
3 fundamental difference. And, in fact, just yesterday in  
4 response to a very similar case in Massachusetts --

5 THE COURT: I read the case.

6 MR. ADAMS: Yes. So making a similar finding in  
7 responding to the Government's arguments.

8 But the point is it -- and another point I've --

9 THE COURT: And, Counsel, I'm sure that I don't --  
10 well, I don't know that all parties know. And, for the record  
11 to be clear, if you could cite the case.

12 MR. ADAMS: Yes.

13 THE COURT: I believe it's --

14 MR. ADAMS: This is the *Lunn* decision.

15 THE COURT: Yes.

16 MR. ADAMS: And the citation that I have for it is  
17 with Lexis. It's 2017 Mass, M A S S., Lexis 544.

18 THE COURT: We use WESTLAW, but I have the similar  
19 case.

20 MR. ADAMS: Okay. Thank you.

21 And I think it's also important to look at the Supreme  
22 Court's decision in *Arizona* where it's reinforcing the fact that  
23 this is a civil matter that the -- does not involve criminal  
24 law. And, in *Arizona*, there was even a stronger basis there,  
25 because, in *Arizona*, the State had taken upon itself to enact



MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - REPLY BY MR. ADAMS

1 legislation that would purport to provide local law enforcement,  
2 local officials, with the power to execute arrest warrants.  
3 And, in that case, of course, the Supreme Court said, "No,  
4 you're preempted. You step beyond the realm that you're  
5 authorized to do so."

6 But there, at least, the State of Arizona had a statute  
7 that on its face purported to provide them with authority. Here  
8 you have absolutely no authority for Yakima officials to rely on  
9 in order to allow them to execute that I-200 or now U.S. -- the  
10 U.S. Attorney's office has told us it's the I-203 that's going  
11 to magically turn our client's custody under -- from the --  
12 transition it from the jurisdiction of Yakima County to the  
13 Federal Defender.

14 THE COURT: Why can't they do that?

15 MR. ADAMS: Why cannot Yakima County make that  
16 designation?

17 THE COURT: File the 203 and have that be their  
18 authority to detain or continue to detain this individual?

19 MR. ADAMS: Because there's no basis in the law for  
20 the federal government to send a local official, Yakima County,  
21 a form that says, "Do this work for us." The federal government  
22 doesn't have the authority --

23 THE COURT: The IGA doesn't cover that? The  
24 intergovernmental agreement?

25 MR. ADAMS: Absolutely not. The intergovernmental

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - REPLY BY MR. ADAMS

1 agreement refers specifically to federal detainees.

2 THE COURT: Counsel argued that -- as I understood  
3 counsel's argument, he said that the IGA covered this.

4 MR. ADAMS: And I'll turn to the language of -- of the  
5 IGA itself, that we submitted with our reply, since the federal  
6 government made reference to that. And, so, if you go to  
7 Document 28-1 and to the key section, which is on Page 5 of --  
8 of that intergovernmental agreement; but it's -- Page 11 is the  
9 notation of the declaration. And, if I may read, there's three  
10 short paragraphs there. It says (reading): The local  
11 government agrees to accept federal detainees only upon  
12 presentation by a law enforcement office -- officer of the  
13 federal government with proper agency credentials.

14 So all of a sudden the federal government has skipped over  
15 this very important step where they actually took custody of our  
16 client or of an individual and then presented them to the local  
17 authority.

18 And then it goes on to say (reading): The local government  
19 shall not relocate a federal detainee from one facility under  
20 its control to another.

21 So, again, we're talking about federal detainees after that  
22 point.

23 This -- this provision, this contract, provides no  
24 authority for Yakima officials to execute the arrest warrant, to  
25 engage in enforcement activities.

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - REPLY BY MR. ADAMS

1           THE COURT: Is there no Washington State law that  
2 authorizes them to do that?

3           MR. ADAMS: There is no Washington State law that  
4 authorizes. The only opportunity to engage in this civil  
5 enforcement of immigration law is if a local municipality or  
6 county went through the training certification process at  
7 8 U.S.C. 1357(g) where they go through a certification, a  
8 training, and then they renew that training, they have  
9 supervision.

10          But it's notable that no municipality or county in  
11 Washington State has participated in that program. There's no  
12 authority under federal law or state law to engage in this  
13 conduct.

14          And, while the attorney for Yakima County calls this an  
15 academic question, I think it was -- it was very enlightening to  
16 hear the attorney for the U.S. Attorney's office saying, "Well,  
17 it's not that they're always going to be released. Sometimes  
18 we'll just send them this form and that it's perfunctory and  
19 procedural." And -- and that is precisely what we're  
20 challenging. It's one of the -- the harms that we are  
21 challenging here.

22           THE COURT: Okay. Thank you.

23           MR. ADAMS: Thank you.

24           THE COURT: Mr. Plant?

25           MR. PLANT: Your Honor?

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - FURTHER RESPONSE BY MR. PLANT

1 THE COURT: Go ahead. Same question.

2 MR. PLANT: Could you repeat the question, your Honor?

3 THE COURT: Yes. Talk to me about the administrative  
4 warrant and whether or not the County would be authorized to  
5 enforce that -- serve that warrant or enforce that warrant.

6 MR. PLANT: Well, your Honor, our -- our position  
7 would be that much of the case law cited by all of the parties  
8 arises in the context of the I-204 detainers. And there appears  
9 to be a lot of litigation going on around the country right now  
10 on the scope and effect of administrative warrants.

11 Yakima County acknowledges that the warrant is a civil --  
12 civil warrant. It's issued to other immigration officers and  
13 authorizes other immigration officers to detain individuals to  
14 whom an administrative warrant is -- is directed.

15 THE COURT: And you agree that county officials --  
16 county representatives could not enforce that. Is that fair to  
17 say?

18 MR. PLANT: That's correct. Yakima County  
19 acknowledges that it -- it has no authority to arrest anyone on  
20 the basis of an administrative warrant. I think the case law  
21 is -- is -- is sort of well established that we can cooperate  
22 with, you know, other agencies. But, yeah, we don't dispute  
23 that we don't have the authority to arrest or -- or detain  
24 anyone on the basis of an administrative warrant.

25 THE COURT: Okay.

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - FURTHER RESPONSE BY MR. REUVENI

1 (Pause in the proceedings)

2 MR. REUVENI: Your Honor?

3 THE COURT: Yes, please approach.

4 MR. REUVENI: Thank you again, your Honor. Same  
5 question?

6 THE COURT: Same question.

7 MR. REUVENI: All right. So, to start, this question,  
8 I think, more so than what we discussed on the last set of  
9 questions, is, in fact, more academic because it is not live  
10 right now. The warrant hasn't -- the County hasn't made an  
11 arrest based on the warrant. No one has made an arrest based  
12 on --

13 THE COURT: No, Counsel, hold on. I want you to  
14 follow my thinking here. Let's assume for a second that I  
15 believe that, in fact, this is a detention. Then the only way  
16 that the County could continue to detain this person is if, in  
17 fact, they were authorized in some way to, you know, enforce  
18 this particular warrant, to serve this warrant, and to enforce  
19 the administrative warrant.

20 MR. REUVENI: Sure.

21 THE COURT: If that were the case, that's the only  
22 avenue that that would occur. Correct?

23 MR. REUVENI: So I want to be clear on ICE's position  
24 on this.

25 THE COURT: Okay.

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - FURTHER RESPONSE BY MR. REUVENI

1 MR. REUVENI: That's not what's happening here, and I  
2 understand that *Lunn* -- I'm familiar with the case. I signed  
3 that brief. I understand that that's a new and interesting way  
4 to go here, but that's not teed up in this case. No one is  
5 alleging that a -- that, once a new seizure occurs by the  
6 County, that the County is now making an arrest that it's  
7 unauthorized to do under state law. That's not a claim in the  
8 Complaint. That's not an argument in the TRO. That's nowhere  
9 in the papers. So that -- that's an interesting question for  
10 another hearing or lawsuit.

11 THE COURT: Counsel -- but the unfortunate thing for  
12 you is that I'm the judge asking that question.

13 MR. REUVENI: That is definite.

14 THE COURT: So please answer that question.

15 MR. REUVENI: So we've laid out, over the course of 20  
16 pages in our brief -- and I'll just summarize here rather than  
17 belabor the point.

18 So the administrative warrant does establish probable cause  
19 for a federal officer to make an arrest, and the administrative  
20 warrant also establishes probable cause an individual is  
21 removable from the United States. I don't think anyone thus far  
22 disagrees with those two premises that I've laid out from either  
23 side.

24 I think it's helpful here to look at *Arizona*. Let's start  
25 there because that's where plaintiffs referred the Court to.

1 And there plaintiffs also referred to the only way a county,  
2 under *Arizona*, in their view could make an arrest based on a  
3 warrant, assuming, in fact, that's what's happening in this  
4 case --

5 THE COURT: Okay.

6 MR. REUVENI: -- if there was an agreement to do so; a  
7 so-called 287(g) agreement under 8 U.S.C. 1357, 1 through 9. So  
8 that's not what *Arizona* says. *Arizona* says that's one way it  
9 can happen.

10 There's a second way *Arizona* says it can happen, and here I  
11 think it maybe helpful to -- I'll just quote to the Court  
12 directly from the case.

13 THE COURT: Okay.

14 MR. REUVENI: That's 567 U.S. at 410. So the issue in  
15 *Arizona* really was that, in *Arizona* law, quote -- oh, I'll not  
16 quote -- allowed *Arizona* officers to arrest, quote, "without any  
17 input from the federal government about whether the arrest is  
18 warranted in a particular case." So that's one point of  
19 observation from *Arizona*. That's not what's happening here.  
20 The Government has provided Yakima the input. It's given the  
21 administrative warrant and said, "Hey, let us know when you  
22 release this guy." So that's not what was happening in the  
23 *Arizona* case.

24 Separately, as to the issue of cooperation, the Court was  
25 clear to distinguish unilateral action from the following:

1 Quote, "a request, approval, or other instruction from the  
2 federal government." And, in fact, it listed as forms of  
3 permissible cooperation two things that are relevant here: One,  
4 to allow federal immigration officials -- I'm quoting -- "to  
5 gain access to detainees held in state facilities" and, two, to  
6 share information -- here I'm referring to 8 U.S.C. 1357(d).  
7 That's the detainer statute; and this is at 567 U.S., again, at  
8 410 -- to respond to requests for information about when an  
9 alien will be released from their custody. These are the two  
10 things that are happening in this case.

11 So, even if we assume for purposes of your question, your  
12 Honor, the issue of whether the arrest has actually occurred  
13 pursuant to a warrant, whether the administrative warrant here  
14 is, in fact, a new seizure, it would be permissible under  
15 *Arizona*.

16 The next case I think that's helpful to answer your  
17 question is *Santos*, a Fourth Circuit decision that really delves  
18 into these issues.

19 THE COURT: And, so, wait. Let me back up here.

20 MR. REUVENI: Sure.

21 THE COURT: Because you just said that under  
22 *Arizona* -- under -- that that's authority for -- as I understood  
23 your argument -- for the County to, in fact, enforce this  
24 warrant? Is that what you're saying?

25 MR. REUVENI: No. *Arizona* is saying the county



MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - FURTHER RESPONSE BY MR. REUVENI

1 enforcing the warrant is not preempted under federal law. And,  
2 so, for purposes of federal law, if the County takes this action  
3 in response to and only in response to a request, direction,  
4 instruction, or some similar act of reaching out by the U.S.  
5 Government, that's not preempted.

6 THE COURT: Okay. Let me stop you here. And, in this  
7 case, that has not happened.

8 MR. REUVENI: A request from the U.S. Government?

9 THE COURT: Yes.

10 MR. REUVENI: Absolutely it's happened. This is  
11 what -- how the U.S. Government interacts with Yakima under  
12 Yakima's policy, and let me unpack that. Yakima, after  
13 *Clackamas County*, decided they won't respond to detainer  
14 requests.

15 THE COURT: Right.

16 MR. REUVENI: Specifically not -- so there's two  
17 aspects to a detainer request: Letting the Government know an  
18 individual's release date, which they still do and which *Arizona*  
19 makes clear they can for purposes of federal law, and, then,  
20 holding someone for up to 48 hours for ICE to come pick them up.  
21 So that's the second part of a detainer. That's the part  
22 *Clackamas County* addressed under a different policy involving a  
23 different set of facts.

24 But that's what the County here in Yakima is not doing any  
25 more. No one here has alleged that will happen if and when they

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - FURTHER RESPONSE BY MR. REUVENI

1 release him or after he posts bond. As I've said, ICE will come  
2 most likely and pick him up right then and there and take him to  
3 a new location or they'll rebook him back into Yakima County.  
4 That would be the new seizure; and ICE would be doing that, not  
5 the County.

6 In terms of --

7 THE COURT: I guess I don't understand what you're  
8 saying; that there's this request. I thought that the warrant  
9 -- and I read that. I thought it directs agents -- state agents  
10 -- not state agents but rather immigration officers, not state  
11 agents. So where in that -- in that warrant, administrative  
12 warrant, do you see that there being authority for state agents  
13 to enforce that?

14 MR. REUVENI: So why else would ICE serve the warrant  
15 both on the County so then the County can populate its database  
16 and on the individual in this case? That's them reaching out to  
17 the County and saying, "Hey, we are requesting that, when you're  
18 done with this individual, when he's released from state  
19 custody, let us know."

20 THE COURT: Well, they can give them whatever they  
21 want; but --

22 MR. REUVENI: That's what will happen here.

23 THE COURT: Hold on. They can give them whatever they  
24 want, but my question is different. What in that do you believe  
25 establishes that they are directing them to enforce this

1 warrant?

2 MR. REUVENI: That's not what's happening from the  
3 Government's view. The Government is not directing anyone to  
4 take any action. We are requesting. If we were to direct them  
5 to take action, that would be a Tenth Amendment problem. And,  
6 so, we are not telling the County to do anything. We're not  
7 telling the County to take any action that is mandatory in the  
8 Government's view. We are making the request.

9 If they -- if there is a new seizure -- so, again, to your  
10 hypothetical, your Honor. If there's a new seizure, the  
11 administrative warrant that's now in the record and in the file,  
12 relying on it, what the County has done here is, in your view, a  
13 new seizure. The probable cause in that administrative warrant  
14 is all that is required.

15 And, so, again, I think if I may take it to the next step  
16 here, I was going to refer to *Santos*. So what does *Santos* say?  
17 *Santos* is a Fourth Amendment -- or Fourth Circuit decision  
18 applying *Arizona* in the Fourth Amendment context. And here I'm  
19 quoting again, 725 F.3d at 466. *Arizona*, the United States  
20 makes clear that under Section 1357(g)(10), "local law  
21 enforcement officers cannot arrest aliens for similar  
22 immigration violation absent at a minimum direction or  
23 authorization by federal officials." "Direction or  
24 authorization by federal officials." That's what the warrant  
25 is.

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - FURTHER RESPONSE BY MR. REUVENI

1       So the Fourth Circuit has said in this circumstance, if  
2 there were to be a new seizure -- and what the County has done  
3 here, put the immigration hold in place -- or even forget that.  
4 Let just say there's a new arrest. The County has made --  
5 hypothetically made an arrest based on this warrant at the  
6 Government's request -- U.S. Government's request. *Santos* tells  
7 us that's not a Fourth Amendment violation. *Santos* tells us,  
8 because the Government has requested it, that is not a problem.

9       It'd be different, concededly, if the County were to  
10 unilaterally go out, effectuate an arrest based on a warrant  
11 where ICE has not reached out to them, which is, in fact, what  
12 happened in *Santos*. There was a warrant on what's called the  
13 "NCIC database." They relied on it and picked him up. Then  
14 they called ICE. ICE hadn't asked them to do that.

15       But that's not the situation here. ICE affirmatively goes  
16 to the jail, interviewed this individual, lodged the warrant  
17 after learning -- after this individual admitted he was in the  
18 United States unlawfully in ICE's view, then lodged that warrant  
19 with the County and served it on this individual.

20       And, again, in the Government's view, there has been no new  
21 seizure. Unless and until he's released and picked up by ICE,  
22 there's no new seizure. But, to your hypothetical, if there is  
23 to be a seizure and it's done by the County, *Arizona* plus *Santos*  
24 provide the authority in the Government's view that that is an  
25 acceptable approach by the County. The probable cause in the

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - FURTHER RESPONSE BY MR. REUVENI

1 warrant does not violate the Fourth Amendment.

2 And, so, this gets to some points we've raised in our  
3 brief.

4 THE COURT: We're not there yet.

5 MR. REUVENI: Very well.

6 THE COURT: All right. Thank you.

7 MR. REUVENI: Okay. There's one other point I wanted  
8 to make on this issue if --

9 THE COURT: Go ahead.

10 MR. REUVENI: It's the -- this ties into something you  
11 asked about before on the bail bondsmen. So, if the bail  
12 bondsman were to go to the county jail and inquire about, "Well,  
13 should I give this guy a bond? Should I pony up the money," he  
14 will learn that the admin warrant has been issued. ICE has done  
15 that, not the County.

16 THE COURT: How -- how do you know that?

17 MR. REUVENI: Well, it's in the system. He looks in  
18 the system. He sees he's got the admin warrant.

19 THE COURT: Well, we talk about "the system." What  
20 does it mean for him to have access to the system?

21 MR. REUVENI: He's relying on the information in the  
22 system in making his determination not to post bond in this  
23 instance. So he -- what's causing all that is the administrative  
24 warrant. Now, the County has a policy of noting the  
25 administrative warrant in the system; and that's how the bail

1 bondsman acquires that information, because it's publicly  
2 available information. So they go on the website. They see it.  
3 They learn that.

4 But to the extent that the question is: Does the County do  
5 this? Does ICE do this? Who causes that? At the end of the  
6 day, the warrant does it; and it's perfectly acceptable for the  
7 warrant to do it because the warrant has the probable cause  
8 finding. And when and if the alien's released, ICE is fully  
9 entitled to pick him up based on the warrant. If the bondsman  
10 doesn't want to take that chance is an issue for the bondsman.

11 Thank you.

12 THE COURT: All right. Thank you.

13 The question, I guess, for all counsel. The Court  
14 understands that Mr. Sanchez Ochoa is raising constitutional  
15 claims, you know, under the Fourth Amendment. However, can the  
16 Court decide this case on statutory or other grounds? So I'll  
17 ask the plaintiffs first.

18 MR. ADAMS: Thank you. 1983, which he -- which he's  
19 brought his claim under, allows him to assert redress for  
20 violations of either the U.S. Constitution or federal statute;  
21 and there is no federal statute that authorizes Yakima to engage  
22 in enforcement activities. And, so, to the extent that their  
23 actions violate the statute, which would be, again, 1357(d),  
24 which is the provision that discusses detainers and that -- and  
25 that provision only talks about sharing information and, then,

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - MR. PLANT ADDRESSES COURT'S QUESTIONS  
MR. PLANT ADDRESSES COURT'S QUESTIONS

1 the implementing regulations bring in the holds. But even with  
2 the holds, again, to the extent it violates that statute, then  
3 there is that claim.

4 We believe the constitutional claim is -- is more clear  
5 because the implementing regulations for 1357(d) go far beyond  
6 the statute itself. In -- an example of that, again, would be  
7 in the -- the *Arizona* case in the Supreme Court where the --  
8 there was much discussion in the briefing about the extent of  
9 the detainer regulations. But the Supreme Court cited only to  
10 the statute and discussed only the information-sharing  
11 component, which is what the statute consists of.

12 So I -- I think as -- for purposes of the 1983 claim, while  
13 it's possible, it's a -- it's a much more clear route to go  
14 through the Fourth Amendment.

15 THE COURT: Okay. Mr. Plant.

16 MR. PLANT: Your Honor, Yakima County's position would  
17 be there's one allegation in the Complaint, the Fourth Amendment  
18 violation; and that would be the proper basis for adjudicating  
19 the temporary restraining order.

20 THE COURT: Okay. Thank you.

21 MR. PLANT: Thank you.

22 THE COURT: Counsel?

23 MR. REUVENI: Thank you, your Honor. I would agree  
24 mostly with the counsel for Yakima. These claims have not -- a  
25 claim -- a statutory claim has not been plead. A regulatory

1 claim has not been plead. The -- the issue that -- what  
2 8 U.S.C. 1357(d) or the regulations implementing it mean or do  
3 not mean, whether they're lawful or not lawful, whether they  
4 exceed authority or not, none of that's plead. None of that's a  
5 claim here.

6 The only claim that has been plead is there's been an  
7 unlawful new seizure; and, so, in the Government's view, the way  
8 to resolve this case is to find there has been no seizure. And  
9 when and if there is a new seizure, the Court can deal with that  
10 issue at that time.

11 THE COURT: Okay. Counsel, I don't need additional  
12 argument on any other points. However, I want to give you this  
13 opportunity to address any final points that you think are  
14 relevant for the analysis and for the motion before the Court.  
15 I'll start with the plaintiffs.

16 MR. ADAMS: Thank you. Not to indulge too much but we  
17 believe that -- that the charges that have been made make clear  
18 that -- that the County has engaged in conduct that has deterred  
19 our or impaired our client's ability to interact with the bail  
20 bond agency. Now, I'd just make the point that it's not just  
21 the bail bond's affidavit. It was also the sister's affidavit.  
22 It was also a licensed attorney in Yakima who practices both in  
23 federal and --

24 THE COURT: I know Ms. Stevens and her reputation.

25 MR. ADAMS: So we have multiple sources that say, yes,



MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - FINAL SUMMATION BY MR. PLANT

1 this is an impact; and now we have the U.S. Attorney's office  
2 also acknowledging that, yes, there's another form that they  
3 submit. That -- where they don't show up, this I-203, that  
4 they'll just perform this administrative transition; and that's  
5 precisely the practice that we've experienced, that our clients  
6 have experienced, and -- and have informed our client in -- in  
7 advising that he has no opportunity for release.

8 THE COURT: Okay. Thank you.

9 MR. ADAMS: Thank you.

10 THE COURT: Mr. Plant?

11 MR. PLANT: Your Honor, I'd like to make just a final  
12 point on an issue I thought, you know, was of -- of note, which  
13 had to do with the posting of the I-200 onto the County's  
14 website.

15 THE COURT: Right.

16 MR. PLANT: And that gets to sort of the relief that's  
17 sought by the -- Mr. Sanchez in this lawsuit. He seeks the  
18 County to sort of remove its immigration hold. And, you know,  
19 as we discussed, what the County's done is received an  
20 administrative warrant from ICE; and it's sort of noted it in  
21 its -- in its system. One way it's noted it -- noted the  
22 administrative warrant in its system is by entering it into its  
23 jail management system, which then populates the website.

24 And that's the County's action here. The -- I do a lot of  
25 public records litigation; and whether or not the County posts

1 that to its website, that's a public record. Any bail bondsman,  
2 any person in the State of Washington or in the United States  
3 could make a public records request to Yakima County. Do you  
4 have any administrative warrants for Mr. Sanchez? And we would  
5 have to produce those.

6 Is the relief that Yakima County no longer accepts  
7 administrative warrants? Is the relief that we handle them in a  
8 certain way? And with respect to Mr. Sanchez, we already have  
9 an administrative warrant for Mr. Sanchez. I mean, the ship has  
10 sort of sailed. I just want to make that sort of point. I  
11 think the relief is -- I'm just not sure, you know, what -- what  
12 are they asking for in this case?

13 THE COURT: Actually, I'm glad you're raising that  
14 point; and let me -- let me go back to the plaintiffs here for a  
15 second. I notice that in the letter that you -- that counsel  
16 sent to -- and, of course, I can't find it at this time. But  
17 remember there was a specific request for two things. Here it  
18 is. So, the letter that was sent to Ed Campbell -- that's in  
19 Document 7-3?

20 MR. ADAMS: Yes.

21 THE COURT: It requested two things: One, the removal  
22 of ICE hold placement on Mr. Sanchez and, two, clearly stating  
23 that Yakima County will no longer accept I-200 forms or  
24 administrative warrants as authorized for placing ICE holds on  
25 persons -- so referring to, obviously, more than just

1 Mr. Sanchez.

2 What is the relief that is being sought today?

3 MR. ADAMS: The relief today is directed specifically  
4 to Mr. Sanchez. It is that the ICE hold or the immigration hold  
5 or the designation, however that's labeled, be removed and that  
6 Mr. Sanchez be permitted the opportunity to post bail and be  
7 physically released from Yakima County.

8 Now, if -- again, if ICE officers wished to show up and  
9 detain him at that point, that -- that is the prerogative of the  
10 Federal Government but that -- specifying that Yakima County  
11 cannot, as an administrative matter, redesignate him into ICE  
12 custody.

13 THE COURT: Mr. Plant has said, well, that ship has  
14 sailed. They already have an administrative warrant that  
15 already -- they already have that information. It's already in  
16 their system, if you will.

17 MR. ADAMS: We -- we have a Declaration from a bail  
18 bonds agency saying that if that immigration hold were removed,  
19 they'd be willing to cooperate with our client to -- and engage  
20 in services with our client. And, so, that's the first part.

21 And the second part is: We don't know what's going to  
22 happen with the -- if he's able to post bail, are they going to  
23 administratively redesignate him under federal custody? Or are  
24 they going to comply with the practice that they've asserted  
25 today and say he'll be physically released? And, at that point,

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - FINAL SUMMATION BY MR. REUVENI

1 it's up to DHS to do what they -- what they will.

2 THE COURT: I presume they will call immigration and  
3 inform them of his pending release.

4 MR. ADAMS: Yes. And we -- we do not oppose that. We  
5 certainly recognize their authority to do that.

6 THE COURT: All right. Thank you. Counsel, any final  
7 point?

8 MR. REUVENI: Thank you, your Honor. Very quickly.  
9 Just a few final points. Thank you, your Honor.

10 THE COURT: Okay.

11 MR. REUVENI: So, in our view, again, there has been  
12 no new seizure. So, largely, the -- the back and forth, the  
13 questioning on what's the authority for the County to effectuate  
14 an administrative warrant in the abstract outside the  
15 circumstances presented here, that's not this case. At least  
16 not yet. There's no allegations to that. There's no claims to  
17 that. So we think that, at least particularly in the context of  
18 a TRO, it would not be the appropriate time to reach that issue;  
19 and there's no need to. There's been no new seizure. When and  
20 if he posts bail, one of three things will happen, as I  
21 mentioned, on that point.

22 So I -- I told the Court three things may happen, and that  
23 was in chronological order of what's most likely to happen.  
24 What's most likely is ICE will pick him up and take him to  
25 Tacoma.

MOTION HEARING - JULY 25, 2017  
MOTION FOR TEMPORARY RESTRAINING ORDER - FINAL SUMMATION BY MR. REUVENI

1 Second, they'll pick him up and book him back into Yakima.

2 What I mentioned with the I-203, which is not at issue in  
3 this case that we know of at this time because no one's alleged  
4 it and it hasn't happened yet. That's a distant third if they  
5 can't do one of the first two things, but that does happen in  
6 Yakima from time to time. Just duty of candor to the Court.

7 Again, even if there's a new seizure, we fully believe  
8 under *Arizona, Santos*, the authorities we cited in our brief,  
9 particularly Paged 29 to 47, there's probable cause to make the  
10 arrest. If it's lawful under the Fourth Amendment for the U.S.  
11 Government to effectuate an arrest based on an administrative  
12 warrant, it cannot be unlawful under state law. That's *Virginia*  
13 *v. Moore*, which we cited in our brief.

14 Also a second case that's very helpful that plaintiffs  
15 didn't -- plaintiff did not mention when they mentioned  
16 *New Hampshire v. Coolidge* is *Abel v the United States*, a 1960  
17 Supreme Court case. In five pages, it explained that  
18 administrative warrants, as the basis for immigration  
19 enforcement, has, quote, the sanction of time; and it's been  
20 lawful and on the books in the United States since roughly 1789.  
21 So the Supreme Court has made clear this is okay with respect to  
22 the use of administrative warrants.

23 On the issue of the letter and the inexactitude of what is  
24 federal court, I mean, immigration court is a federal court with  
25 respect -- from the perspective of the State and the perspective

MOTION HEARING - JULY 25, 2017  
COURT'S ORAL DECISION

1 of the County. So, in that letter, if the Chief is saying, "You  
2 can deal with that in federal court," well, yeah. He's -- we  
3 think he's referring to immigration court, but he's not an  
4 immigration lawyer. He's not a civil litigator. He's a police  
5 -- he's a law enforcement officer. So, he's speaking with  
6 inexactitude. I don't think it really pushes plaintiffs across  
7 the line from no likelihood of success on the merits to  
8 likelihood of success in the merits in this posture.

9 And, as to relief, again, I mean, this -- he wants -- I'm  
10 not -- I'm not understanding it; but what I'm under -- what I  
11 hear plaintiff's counsel saying is they want the hold lifted so  
12 that he can walk out of jail and then be arrested by ICE. I  
13 don't think they want that. They're telling you they want that,  
14 but they don't want that. That's most likely what will happen.  
15 So it's not really any sort of relief. He'll be picked up by  
16 ICE. Then the new seizure that we're all talking about here  
17 will occur, and no one disagrees that that seizure will be  
18 lawful because it's pursuant to an administrative warrant under  
19 8 U.S.C. 1226(a).

20 Thank you.

21 THE COURT: Thank you. I'm going take a five-minute  
22 recess.

23 (Court recessed at 3:47 p.m.)

24 (Court reconvened at 3:56 p.m.)

25 THE COURT: As I indicated when we started this

1 hearing, I noted that what the plaintiff is asking is that the  
2 Court take this extraordinary step and remedy to issue this  
3 temporary restraining order prohibiting Yakima County to engage  
4 in the process that they have been; that is, to issue what they  
5 have termed as an "immigration notice" -- and put that in  
6 quotation marks -- but really is, in their mind, a notice and to  
7 prohibit them from engaging in that conduct.

8       The County indicates that, when they indicate in their  
9 records that this is an immigration hold, it is -- they argue it  
10 is not an immigration hold.

11       You know, one of the things I do when I talk to jurors and  
12 they come in for a trial, I tell them -- I said -- I say to  
13 them, I say, "Jurors, when you walk into this courtroom and you  
14 cross that threshold, that doesn't mean that you have to suspend  
15 your common sense and suspend your experience and forget that."  
16 And I think that applies here.

17       How else are you going to interpret an immigration hold but  
18 for the fact that it is, in fact, an immigration hold? It is a  
19 detention that Yakima County is engaging in.

20       Now, there are several rationales that indicate that this  
21 is, in fact, so. One way, as argued by the plaintiffs, is that  
22 it prevents individuals like Mr. Sanchez Ochoa from obtaining a  
23 bond. So it, in effect, is a seizure. It prevents an  
24 individual from obtaining a bond, period. And I can tell you,  
25 in all of the years that I practiced in state court, it had that

1 effect.

2 Now, that's not just my experience because, again, I'm not  
3 intending to suspend that; but that's bolstered by the record  
4 that's been presented to this Court: The Declarations that have  
5 been filed both by the bails bondman, the attorney who has a --  
6 who is an experienced attorney I know very well and, in fact, is  
7 experienced both in criminal and immigration law. And, so, I  
8 just -- I don't know how to see that designation by the County  
9 as anything other than a detention.

10 And, so, the other issue, then, is: Despite that  
11 detention, if, in fact, we have a detention, is -- is there  
12 something that authorizes the County to enforce that  
13 administrative warrant? By the County's own admission, there is  
14 not; and I would agree with that. The immigration warrant is  
15 directed to immigration officials or other individuals that are  
16 not relevant to today's discussion.

17 The Government argues that what I should do is just accept  
18 the fact that an immigration official has indicated that  
19 probable cause has been established and that that should serve  
20 as a basis for the County to enforce that administrative  
21 warrant. I'm not prepared to do that or to accept that argument  
22 because, frankly, that goes to the heart of the Fourth  
23 Amendment. Probable cause has to be established by a neutral  
24 and detached magistrate, period; not by the executive branch,  
25 which is what's happening here.



1       The County is not authorized under that warrant to detain  
2 Mr. Sanchez Ochoa. And when one looks at the Ninth Circuit  
3 interpretation here, when the plaintiff demonstrates a serious  
4 question going to the merits that were raised and the balance of  
5 hardship tips sharply in the plaintiff's favor, the Court should  
6 grant the motion.

7       In evaluating the four factors -- four *Winter* factors: The  
8 likelihood of success, the fact that Mr. Sanchez Ochoa is likely  
9 to suffer irreparable harm when balancing the equities, and  
10 whether this is in the public interest -- the Court concludes  
11 that all of those factors are met.

12       As such, the Court will, in fact, issue the temporary  
13 restraining order specific to Mr. Sanchez Ochoa.

14       The Court will supplement its oral ruling with a very  
15 detailed analysis and order outlining its thinking, but I wanted  
16 the parties to have the benefit of the ruling at this time to  
17 plan accordingly.

18       Counsel, is there anything else we need to address today?  
19 First, over here with the plaintiffs.

20               MR. ADAMS: If I may, does the -- so -- the question  
21 is the timing for our client. I assume that the holds will be  
22 lifted so he'll be able to post -- engage with the bail bonds  
23 agency immediately?

24               THE COURT: That's the intent of the Court. Let's  
25 hear from Mr. Plant. Is that going to be a problem?

1 MR. PLANT: Well, your Honor, I certainly do require a  
2 little bit of clarification. As stated in our Declarations,  
3 it's our position that he has been able to post bond at any time  
4 before today and after today's ruling. I understand your ruling  
5 to be that the detention is the act of posting the  
6 administrative warrant to the County's website? I just want to  
7 get clarification on that.

8 THE COURT: No. The -- the specific procedure that  
9 the County has of designating immigration holds on individuals  
10 it receives administrative immigration warrants, that is what is  
11 being restrained specifically to Mr. Sanchez Ochoa, of course.  
12 But that immigration hold must be lifted. And if that means  
13 that you have to remove that designation from your website, then  
14 that's what that means.

15 MR. PLANT: Just a point of clarification. So Yakima  
16 County will presumably continue to receive administrative  
17 warrants, and I'm just thinking about -- let's -- for example,  
18 we remove the immigration hold notation from the website. We  
19 get calls from bail bondsmen having received an administrative  
20 warrant for Mr. Ochoa. I'm just uncertain as to -- I guess  
21 maybe I would ask that, I guess, if there's a written ruling to  
22 provide some clarity to handle those --

23 THE COURT: And I will do that. I'll hear from  
24 Mr. Adams. If you could specify the relief sought, that way we  
25 can go forward. At the podium.

1 MR. ADAMS: With respect to the temporary restraining  
2 order that we've requested, we are seeking an order that enjoins  
3 Yakima County from placing an immigration hold, which would  
4 include listing that on the website or providing information to  
5 any other individual that they've designated some immigration  
6 restraint in their -- in their system.

7 Now, they've discussed -- or speculate about persons doing  
8 public records requests, which seems very hypothetical given the  
9 nature of bail bonds agency and -- and the speed of things. We  
10 don't -- I -- I -- I just think that's speculation at best.

11 And what -- what is available are the public -- on their --  
12 on their website, and they shouldn't be seeking to undermine  
13 that order by providing information over the phone that people  
14 would not otherwise be entitled to.

15 And, then, the second point of clarity that we seek is that  
16 Yakima County may not redesignate him as being under the custody  
17 of the Department of Homeland Security without the Department of  
18 Homeland Security actually taking physical custody of him and  
19 then re-submitting him to the county jail pursuant to their  
20 agreement.

21 THE COURT: Okay.

22 MR. ADAMS: Thank you.

23 THE COURT: And, you know, one of the things that I  
24 will do, I want to go back to the plaintiff's motion. This is  
25 not an opportunity to expand also what they have requested

1 initially. That's not fair to the County.

2       So I'm going to review the specific requests that they have  
3 indicated. But I can say this: That the County should not  
4 engage and is, in fact, enjoined from acting in any way that  
5 causes Mr. Sanchez Ochoa from -- preventing him from, in fact,  
6 posting bail by information they release about his immigration  
7 status. If you are releasing information about his immigration  
8 status to bail bondsmen, it's -- we're doing an end-around to  
9 what the Court is ruling today. But I can be more specific in  
10 the order that I issue.

11               MR. REUVENI: Your Honor, may I ask you a question  
12 about that point you just raised, if I might --

13               THE COURT: Sure.

14               MR. REUVENI: -- from the Government's perspective?  
15 Your Honor, are you familiar with 8 U.S.C. 1373, which I  
16 believe is cited in our papers?

17               THE COURT: Why don't you inform me.

18               MR. REUVENI: That's the statute -- federal statute  
19 that indicates that there can be no law or policy, state or  
20 local, that prevents any individual on the local level from  
21 sharing immigration status information with another law  
22 enforcement agency or the public or the Federal Government.

23               THE COURT: Okay.

24               MR. REUVENI: So, perhaps, from our perspective, we'd  
25 appreciate hearing some -- in the order, we hope to see some

1 clarification on how your order is consistent with that statute.

2 I'd also ask -- just to understand when I go back to talk  
3 to my clients. So your order is not directed at the practice of  
4 ICE submitting administrative warrants to the County, from what  
5 I understand.

6 THE COURT: That's not before the Court.

7 MR. REUVENI: Right. So you're just directing the  
8 County not to place an immigration hold in their system and  
9 taking no further action inconsistent with your desire that  
10 Mr. Sanchez be -- if the bail bondsman will provide him bond,  
11 notwithstanding the existence of the administrative order, be  
12 allowed to post that bond.

13 THE COURT: Well, that's -- that's what was requested  
14 by the plaintiffs.

15 MR. REUVENI: Okay. Thank you, your Honor.

16 THE COURT: I have a feeling -- and this is simply an  
17 intuition -- that this is not the last I've heard of this issue  
18 in this District or in this case. That's just an intuition.

19 MR. PLANT: Your Honor, could I just follow up with --

20 THE COURT: Sure.

21 MR. PLANT: Your Honor, I just wanted to sort of  
22 clarify this -- the last comment you made on acting in any way  
23 that causes Mr. Ochoa or preventing him from posting bail. That  
24 includes sharing information? So, obviously, under Washington  
25 law, any record received by the County is a public record. So,

1 if -- if the County is going to be enjoined from producing  
2 administrative warrants that it receives in response to public  
3 records request, I just request that that be stated very  
4 explicitly in an order.

5 THE COURT: It will be.

6 MR. PLANT: Thank you, your Honor.

7 THE COURT: And, to be clear, the Court is not  
8 intending to prevent the County from meeting its obligations  
9 under state law, including public records requests.

10 MR. PLANT: Thank you, your Honor.

11 THE COURT: Okay. Anything else?

12 MR. ADAMS: No. Thank you very much.

13 THE COURT: Anything else?

14 MR. PLANT: No, sir.

15 MR. REUVENI: No, your Honor. Thank you.

16 THE COURT: Then I'll thank you for your presentations  
17 and your filings in this matter. Thank you.

18 (Court adjourned at 4:13 p.m.)  
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**GENERAL INDEX****PAGE**

## Motion for Temporary Restraining Order:

By Mr. Adams.....	4
Response by Mr. Plant.....	12
Response by Mr. Reuveni.....	18
Reply by Mr. Adams.....	29
Further Response by Mr. Plant.....	36
Further Response by Mr. Reuveni.....	37
Mr. Adams addresses the Court's questions.....	46
Mr. Plant Addresses the Court's Questions.....	47
Mr. Reuveni Addresses the Court's Questions.....	47
Final Summation by Mr. Adams.....	48
Final Summation by Mr. Plant.....	49
Mr. Adams Re: Relief Being Sought.....	51
Final Summary by Mr. Reuveni.....	52
Court's Oral Decision.....	54
Follow-up Questions From Counsel.....	57
Reporter's Certificate.....	64

## C E R T I F I C A T E

I, RONELLE F. CORBEY, do hereby certify:

That I am an Official Court Reporter for the United States District Court for the Eastern District of Washington in Spokane, Washington;

That the foregoing proceedings were taken on the date and at the time and place as shown on the first page hereto; and

That the foregoing proceedings are a full, true and accurate transcription of the requested proceedings, duly transcribed by me or under my direction.

I do further certify that I am not a relative of, employee of, or counsel for any of said parties, or otherwise interested in the event of said proceedings.

DATED this 1st day of August, 2017.



RONELLE F. CORBEY, RPR, CSR, CRR  
Official Court Reporter for the  
U.S. District Court for the  
Eastern District of Washington in  
Spokane County, Washington